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in determining punishment; *U. S. v. Palan*, 167 Fed. 991; but the record of a former acquittal should not even be introduced into evidence. *State v. Kenney*, 85 Wash. 441. In the cases cited it is clear that both the states and the federal government have "concurrent power" to make laws punishing the same acts; hence, they may be considered direct authority for violations against state and federal laws passed under the Eighteenth Amendment. For the meaning of "concurrent power" under the Eighteenth Amendment, see 19 MICH. L. REV. 329. In case of a state statute passed in aid of the national act itself, the holding of the court in the principal case might be correct; but the fact was that the state statute had been passed prior to the national act. And compare *U. S. v. Mason*, 213 U. S. 115. It should be noted that the "double jeopardy" provision in the Federal Constitution, Fifth Amendment, applies only to the federal courts. See *Fox v. Ohio*, *U. S. v. Barnhart*, *supra*.

CONSTITUTIONAL LAW—LEVER ACT—INDEFINITE OFFENSE.—Defendant was indicted under the Act of October 2, 1919, c. 80, 41 Stat. 397, commonly known as the Lever Act, for selling sugar at an unjust and unreasonable price. The act provides: "That it is hereby made unlawful for any person wilfully \* \* \* to make any unjust or unreasonable rate or charge in handling or dealing in or with any necessities; to conspire, combine, agree, or arrange with any other person. \* \* \* (e) to exact excessive prices for any necessities \* \* \* Any person violating any of the provisions of this section, upon conviction thereof, shall be fined not exceeding \$5,000, or be imprisoned for not more than two years, or both \* \* \*". On appeal to the Supreme Court it was *held* that the indictment had been properly quashed on the ground that the act under which the proceedings were instituted was so vague in its provisions as to what was thereby made an offense that it was unconstitutional. *United States v. L. Cohen Grocery Co.*, Adv. Ops., Feb. 28, 1921, No. 324.

For discussions of cases involving the validity of statutes defining acts amounting to an offense in terms in general as vague as those passed upon in the principal case, see 18 MICH. L. REV. 810; 19 MICH. L. REV. 218. See also 19 MICH. L. REV. 337, discussing one of the lower court decisions under the Lever Act. Many of the cases have involved regulations of speed and lights of automobiles. There is no question that the Lever Act left the matter pretty vague, but it probably is impossible to frame a statute on such subject that would be definite.

CONSTITUTIONAL LAW—REVIEW OF ACTION OF ADMINISTRATION BOARD.—A Wisconsin statute required that the approval of the application by the fire and police commission of a city should be secured before any person could engage in the business of a private detective. The standard of qualification prescribed by the statute for obtaining the license is that the applicant shall be a person of good character, competency, and integrity. The plaintiffs claimed that the statute gave the fire and police commission arbitrary power

to give or withhold their approval for a license, and that therefore the law was invalid as depriving the plaintiffs of due process of law and of the equal protection of the law. *Held*, the statute does not vest an arbitrary power in the police and fire commissioners. It prescribes a standard of qualification that is an ascertainable and known one, and is readily understood as a matter of common knowledge. *Manufacturers' and Merchants' Inspection Bureau v. Buech* (Wis., 1921), 181 N. W. 125.

In this case, however, while holding that the legislation did not result in a denial of due process of law, nor confer legislative authority on the fire and police commissioners, yet the court held that plaintiffs had stated a good cause of action and were entitled to relief because they alleged that the commissioners capriciously and wrongfully refused to grant the applications. The principles involved in these cases are discussed in 19 MICH. L. REV. 211.

CONSTITUTIONAL LAW—STATUTE REGULATING THE SALE OF TEXT-BOOKS.—Public Acts of Michigan, 1919, No. 380, regulating the sale of school text-books by prohibiting public officers from buying any books except those listed with the state superintendent of schools and at certain fixed prices, *held* constitutional, except as to Section 7, which, in making it unlawful for retail dealers to sell books at higher prices than those listed, without limiting such prohibited sales to school officers, is void as beyond the power of the state. *MacMillan Co. v. Johnson* (D. C., S. D., Mich., 1920), 269 Fed. Rep. 28.

Unquestionably, the legislature has the general power to regulate the conditions under which the state may deal with those who are desirous of selling text-books for use in the public schools. *MacQueen v. Port Huron*, 194 Mich. 328. Plaintiff publishing company having no vested right to deal with the school authorities, and not being forced to do so, may not then complain because these authorities impose conditions upon which they will purchase such text-books. *Polzin v. Rand, McNally & Co.*, 250 Ill. 561. The only invalidity appearing in the act is found in Section 7, providing that no retail dealer shall sell any of the listed books at a price higher than fifteen per cent above the wholesale price and the cost of transportation. Such a provision is an unwarranted interference with the right of contract and the right to engaged in the private business of book-selling at retail, and beyond the power of the state. For this general subject of the right of legislatures to regulate prices, see *Munn v. Illinois*, 94 U. S. 113; 19 MICH. L. REV. 74. That statutes regulating the retail prices of books are not unknown; however, appears from similar statutes found in the English enactments of the time of Henry VIII, Chapter 15, and from a statute enacted in New York in 1786. GREENLEAF'S LAWS, p. 275.

CONTRACTS—MORAL CONSIDERATION.—By the terms of an oral contract under which plaintiff had effected a sale of land for defendant a commission of \$500 was due. Section 11,981 of MICHIGAN COMPILED LAWS (1915) provides that "Every agreement, promise, or contract to pay any commission